IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 1193 of 2005

Between:

Kondaveeti Brahmaiah, S/o.Chinna Thamaiah,
R/o.Khammam District.

..... PETITIONER

AND

1 The District Collector, Khammam, Khammam District.
2 The Deputy Executive Engineer, Taliperu project, Sub-Division-IV,

Irrigation Department, Bhadrachalam, Konavaram Road, Kothapet,

Khammam District.
3 The Sub-Collector, Bhadrachalam, Khammam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction in the nature of writ of Mandamus, declaring the action of the respondents in not paying compensation amount to the petitioner by passing Award, for the lands acquired to an extent of Ac.11.12 1/2 cents in Sy.Nos. 4/2 and 5/1/B, Purushothapatnam village, Bhadrachalam Mandal, Khammam District, which was acquired under a Notification in Rc.No.G/5302/2000, dt.25-10-2000, published in Eenadu daily Khammam edition dt.07-11-2000, being illegal, arbitrary and violative of Article 300-A of the Constitution of India and consequently direct the respondents to pay compensation amount to the petitioner by passing an Award, forthwith.

Counsel for the Petitioner: SMT.N.SHOBA

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

O R D E R:

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This writ petition is filed under Article 226 of the Constitution of India, seeking a Mandamus declaring the action of the respondents in not paying compensation amount to the petitioner by passing Award, for the lands acquired to an extent of Ac.11.12 ½ cents in Sy.Nos.4/2 and 5/1/B, Purushothapatnam Village, Bhadrachalam Mandal, Khammam District, which was acquired under a Notification in Rc.No.G/5302/2000 dated 25-10-2000 published in Eenadu daily Khammam edition dated 07-11-2000 as illegal and arbitrary.

In the affidavit filed in support of the writ petition it is stated that the petitioner is the owner and possessor of the land in an extent of Ac.19.50 cents of land in Old survey No.17 and new Survey Nos. 4 and 5/1, 5/2 and 5/3 of Purushothapatnam village, Bhadrachalam Mandal, Khammam District, which was inherited from his mother. While so, the 1st respondent issued a notification in Rc.No.G/5302/2000 dated 25-10-2000 under Section 4(1) of the Land Acquisition Act published in Eenadu Daily Khammam edition on 07-11-2000 proposing to acquire the land of the petitioner to an extent ofAc.11.12 ½ cents in Survey Nos.4/2 and 5/1/B of Purushothapatnam village for the purpose of Karrakatta colony (i.e. flood bank) at Bhadrachalam. Questioning the same, the petitioner filed Writ Petition in W.P. No. 21224 of 2000 wherein this Court initially granted stay of dispossession of the petitioner and thereafter by an order dated 08-08-2001 disposed of the said Writ Petition directing the respondents not to evict the petitioner till notices were issued and objections received from the petitioner and decide the matter in accordance with law. It is further submitted that even before passing final orders in the above said writ petition, the respondents forcibly took possession of the lands notified, by invoking the powers conferred under Section 17(4) of the Act by dispensing with the enquiry contemplated under Section 5-A of the Act. In view of the same, the petitioner made several representations on 21-12-2001, 23-07-2002 and 20-06-2004 requesting the respondents to pay compensation amount due to him for the acquired land. In spite of the said representations, the respondents failed to pass an award and pay compensation till to-day and therefore, the petitioner by invoking the jurisdiction under Article 226 of the Constitution of India filed the present writ petition.

A counter affidavit has been filed by the respondents denying the ownership of the

petitioner. It is stated that that the Settlement Officer, issued orders granting settlement patta in favour of Sri Seetharamachandra Swamy of Bhadrachalam Devasthanam for the said schedule land in Case Nos.7670 and 7636. In view of the same, the petitioner filed an appeal before the Director of Settlements, Andhra Pradesh, Hyderabad, wherein the orders of the Settlement Officer has been upheld and dismissed the petition. Challenging the same, the petitioner again preferred an appeal before the Commissioner of Survey, Settlements and Land Records in A.P.No.37/86 dated 17-07-1992, wherein the Commissioner of Settlements also upheld the orders passed by the Director of Settlements vide Order No.L1/902/2002 dated 08-04-1993. Questioning the same, the petitioner filed W.P.No.20554 of 1997 and batch before this Court. This Court by an order dated 05-08-1998 dismissed the writ petition on the ground that the petitioner is not in legal occupation and possession of the said land as on 01-07-1970 and consequently he is not entitled to ryotwari pattas. Further it is stated that the petitioner has not filed any proof to show his title over the schedule land. It is further stated that petitioner did not chose to file any objections before the Land Acquisition Officer either to the notification under Section 4(1) and 6 of the Land Acquisition Act or to the publication in the news papers and District Gazettee at the time of initiation of Land Acquisition Proceedings. Therefore, the petitioner has no right over the schedule lands situated at Purushothapatnam village.

Heard both sides.

It is submitted that after dismissal of W.P.No.20554 of 1997, some of the petitioners, who are aggrieved of the same filed S.L.Ps. before the Hon'ble Supreme Court and the same are pending for consideration. But the petitioner is not a party to the said proceedings. Therefore, the order of the Settlement Officer granting settlement patta in favour of Sri Seetharamachandra Swamy of Bhadrachalam Devasthanam in Case No.7670 and 7636 has became final.

Having regard to the facts and circumstances of the case and in view of the fact that the appeals preferred by the petitioner before the competent authorities have been dismissed and apart from that the petitioner did not chose to file SLP along with the other petitioners, the petitioner is not entitled to claim any compensation. Therefore, the writ petition is misconceived and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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06-07-2005

Mjl/*

To,

1 The District Collector, Khammam, Khammam District.
2 The Deputy Executive Engineer, Taliperu project, Sub-Division-IV,

Irrigation Department, Bhadrachalam, Konavaram Road, Kothapet,

Khammam District.
3 The Sub-Collector, Bhadrachalam, Khammam District.

4. 2 CCs to G.P. for Revenue, High Court Buildings, Hyderabad.

5. 2 CD copies.

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